

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:LM:CTM:SEA:Postf 131178-02

YMPeters

date: JUN 14 2002

to: Syd Brown, Appeals Officer
Appeals
915 2nd Avenue, Room 2790
Seattle, WA 98174

from: Associate Area Counsel (LMSB), Seattle, CC:LM:CTM:SEA

subject: [REDACTED] Inc.
EIN: [REDACTED]
Years: [REDACTED] and [REDACTED]

This memorandum responds to your request for assistance dated June 6, 2002. This memorandum should not be cited as precedent.

ISSUE

Since there is a court appointed receiver, what is the proper taxpayer name for a statute extension or a notice of deficiency?

CONCLUSION

When a taxpayer is placed in receivership, the case should be immediately assessed using the quick assessment procedures. This eliminates the need for a statute extension. Also, no notice of deficiency is issued.

FACTS

Our advice is contingent on the accuracy of the information that the Internal Revenue Service has supplied. If any information is uncovered that is inconsistent with the facts recited in this memorandum, you should not rely on this memorandum, and you should seek further advice from this office.

In [REDACTED] the taxpayer, [REDACTED] Inc. was placed into receivership via the Superior Court of Washington for [REDACTED] County. The court appointed a receiver elaborating his powers and duties in an Order dated [REDACTED]. The receiver is a general receiver, having exclusive possession and control over all the taxpayer's assets. At the time the taxpayer was placed into receivership, its tax years [REDACTED] and [REDACTED] were open and being

addressed by the Appeals Division. Once notified of the receivership, the Appeals Officer notified Collection. Collection filed a proof of claim. The deficiency has not yet been assessed. The statute expires on [REDACTED]. On [REDACTED] the Appeals Officer contacted Counsel inquiring about the proper name to use for the taxpayer on a Form 872 statute extension or on a notice of deficiency.

DISCUSSION

Section 6871(a) of the Internal Revenue Code allows an immediate assessment of a deficiency, including all interest, additional amounts, and additions to the tax provided by law, on the appointment of a receiver for a taxpayer in any receivership proceeding before any court of any State. This is permitted despite the restrictions imposed by I.R.C. § 6213(a), setting forth the 90 or 150 day period which must expire before assessment is permitted.

The Regulations require the District Director, upon the appointment of any receiver for any taxpayer in a receivership proceeding before any court of any State, immediately assess any deficiency of income tax, together with all interest, additional amounts, or additions to the tax provided by law, if such deficiency has not previously been assessed.

Treas. Reg. § 301.6871(a)-1. The assessment is required to be made immediately, regardless of whether or not a notice of deficiency has been issued. Id.

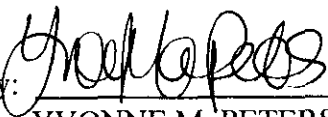
The Internal Revenue Manual further details the requirements of the Code and Regulations when a taxpayer is placed in receivership. An assessment is required to be made immediately after the appointment of a receiver in any receivership proceeding. I.R.M. 5.17.13.11.2. The IRS does not issue a notice of deficiency. Id. Once the immediate assessment is made, the IRS is to advise the receiver of the assessment. I.R.M. 5.17.13.11.2a. According to the Manual, the procedure to use for an assessment in a receivership situation is the "quick assessment." I.R.M. 5.1.4.9. The forms and instructions can be found at I.R.M. 5.1.4.10, and the sections immediately following. Form 2859 is the appropriate form. I.R.M. 5.1.4.10; I.R.M. 7.3.1.

Instead of requesting a statute extension, this case should be immediately assessed using the quick assessment procedures as outlined in the Internal Revenue Manual. No notice of deficiency should be issued.

If you have any questions, please contact, Yvonne Peters at (206) 220-5951.

This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

ROBERT F. GERAGHTY
Associate Area Counsel
(Large and Mid-Size Business)

By: 
YVONNE M. PETERS
Attorney (LMSB)